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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/719,033 | 11/21/2003 | Christopher L. Gerding | 117018-00003 | 2836 |

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| EXAMINER | |
|---|---|
| MCCULLOCH JR, WILLIAM H | |
| ART UNIT | PAPER NUMBER |
| 3714 | |

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 10/719,033 | GERDING, CHRISTOPHER L. | |
| | Examiner | Art Unit | |
| | William H. McCulloch | 3714 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *11 December 2007*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *9,15 and 21-32* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *9,15 and 21-32* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

## DETAILED ACTION

1. This action is in response to a reply filed 12/11/2007. Claims 9, 15, and 21-32 are pending in the application.

### *Priority*

2. Responsive to issues raised in the Office Action mailed 10/15/2007, Applicant presents evidence that the instant application was copending with the parent application number 09/781069. Such evidence is persuasive to establish copendency and overcome the previous grounds of rejection over "Retrogames". The parent application was filed 2/9/2001 and claims priority to a provisional application number 60/218308 filed 7/14/2000.

3. Applicant filed an affidavit under 37 CFR 1.132 on 10/31/2005. The affidavit is adequate to show that Applicant was the inventor of the Havok system (cited as prior art), which was available to the public some time in 1999 and less than one year before the filing of the above provisional application on 7/14/2000. The affidavit is not adequate to show due diligence or conception of the *instant invention*, as defined under 37 CFR 1.131, at least because the affidavit was not filed under § 1.131 (which is used to "swear behind" a reference). Therefore, the earliest theoretical date is between July 14, 1999 and December 31, 1999. At this time, there is no probative evidence to suggest that the instant invention was conceived or reduced to practice earlier than December 31, 1999, which is the date used by the Examiner for the effective filing date of the instant application for purposes of this Office Action.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 9, 15, 22, 25-26, and 28 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. 5,721,842 to Beasley et al. (hereinafter "Beasley").

Regarding claim 15, Beasley teaches a video game apparatus, comprising, a housing having a support for a video monitor therein (e.g., housing and support base of monitor 63; see at least fig. 1); and a control module (e.g., pod 70) communicating with the video monitor and comprising an arcade control for a video game (e.g., keyboard 65 and/or mouse 67), the control module structured to be compatible for use with a plurality of different video game systems (e.g., computers A, B, C in fig. 1). It should be noted that computers A-C may be server computers, which are used for example for providing access to CD-ROM information (see 1:14-22). The Examiner notes that the server computers are "video game systems" according to the scope of the instant claims (e.g., describing a PC computer as a video game system, further discussed below) because the server computers are useful for playing video games.

Regarding claim 9, Beasley teaches a switching system (e.g., switch 60; see fig. 1) structured to allow a user to select which of the plurality of different video game systems are to be operated (see at least 12:65-13:6).

Regarding claim 25, Beasley shows that the arcade control comprises a plurality of buttons on the keyboard 65 and/or mouse 67.

Regarding claim 22, Beasley teaches a video game control system comprising; at least one controller (e.g., keyboard 65 and/or mouse 67); and a control device (e.g., switch 60 and/or pod 70) interconnected to the controller, by which operation of the video game control system may be controlled to play selectively from at least two different video game systems (see at least 12:65-13:6).

Regarding claim 26, Beasley teaches an apparatus, comprising: a control module (e.g., keyboard 65 and/or mouse 67) comprising an arcade control (e.g., respective buttons on keyboard and/or mouse), the control module structured to be compatible for use with a plurality of different game systems (see at least 12:65-13:6).

Regarding claim 28, Beasley shows that the arcade control comprises a plurality of buttons on the keyboard 65 and/or mouse 67.

### *Claim Rejections - 35 USC § 103*

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claims 23-24, 27, and 30-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beasley in view of Official Notice.

Beasley teaches the invention substantially as described above, including the fact that the system translates "between different keyboard/monitor types and different computers" (13:2-4). Beasley further teaches that each server is usually a stand alone computer with its own keyboard, mouse and video monitor (see at least 1:14-22). Beasley lacks in explicitly teaching what type of computers may be used. The Examiner takes Official Notice that it was notoriously well known to one of ordinary skill in the art at the time of invention that PC-based computer systems and Macintosh computer systems were used as server computers. As such, it would have been obvious to one of ordinary skill in the art to use PC and Macintosh computers as server computers, in the manner described by Beasley.

8. Claims 21 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beasley in view of U.S. 6,151,645 to Young et al. (hereinafter "Young").

Beasley teaches the invention substantially as described above, but lacks in explicitly teaching wireless communication between the control module and the plurality of video game systems. In a related disclosure, Young teaches a system to provide wireless communication between input devices (e.g., keyboard 16 and mouse 18) and a computer such as a PS2 or DOS-compatible computer (see at least 1:29-38), also known as a PC. Young teaches that RF or infrared signals may be used for wireless communication (see at least 3:60-35). Young further teaches that the system may include wireless communications between a computer and a monitor (see at least 5:16-

23). It would have been obvious to one of ordinary skill in the art at the time of invention to modify the system described by Beasley to include the wireless system of Young in order to make the system more convenient and flexible to use, as is favorably taught by Young in at least 1:61-63 and 5:16-23. Young also indicates that wireless transmissions do not interfere with other wireless signals by the inclusion of packet identifiers and addresses including in the communication packets (see at least 1:21-28).

9. Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Beasley in view of Official Notice, and in further view of Young.

The teachings of Beasley in view of Official Notice and the teachings of Young are described above. It would have been obvious to one of ordinary skill in the art at the time of invention to modify the system described by Beasley in view of Official Notice to include the wireless system of Young in order to make the system more convenient and flexible to use, as is favorably taught by Young in at least 1:61-63 and 5:16-23.

### *Response to Arguments*

10. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

11. Applicant's arguments regarding priority of the instant application have been fully considered and are fully answered in the Priority section above.

### *Citation of Pertinent Prior Art*

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure and is listed on the attached Notice of References Cited.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William H. McCulloch whose telephone number is (571) 272-2818. The examiner can normally be reached on M-F 9:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert E. Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/W. H. M./
Examiner, Art Unit 3714
3/11/2008

/Robert E Pezzuto/
Supervisory Patent Examiner, Art Unit 3714